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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-848]

Freshwater Crawfish Tail Meat from the People's Republic of China: Rescission of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On April 26, 2013, the Department of Commerce (the Department) initiated the antidumping duty new shipper review of freshwater crawfish tail meat from the People's Republic of China (PRC) with respect to Hubei Nature Agriculture Industry Co., Ltd. (Hubei Nature). The period of review (POR) of September 1, 2012, through February 28, 2013. For the reasons stated below, we are rescinding the review of Hubei Nature.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Minoo Hatten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0665 or (202) 482-1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 26, 2013, the Department initiated an antidumping duty new shipper review of freshwater crawfish tail meat from the PRC, for the period September 1, 2012, through February 28, 2013, with respect to Hubei Nature.¹ On May 9, 2013, the Department issued a letter to

¹ See *Freshwater Crawfish Tail Meat from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review*, 78 FR 24723 (April 26, 2013).

Hubei Nature requesting documentation establishing the date of entry applicable to the U.S. sale and shipment of freshwater crawfish tail meat which formed the basis for the initiation of this new shipper review. On May 14, 2013, Hubei Nature provided the requested information.

Rescission of Review

Under 19 CFR 351.214(f)(2) of the Department's regulations, when the sale of the subject merchandise occurs within the POR, but the entry occurs after the POR, the Department may expand the POR unless the expansion would likely prevent the completion of the review within the time limits set by the Department's regulations. While the regulations do not provide a definitive date by which the entry must occur, the preamble to the Department's regulations and 19 CFR 351.214(f)(2)(i) state that both the entry and the sale should occur during the POR, with the language in the preamble clarifying further that only under "appropriate" circumstances should the POR be extended when the entry is made after the POR.²

While the Department did not adopt in the regulations a precise cut-off point for expanding the POR to cover post-POR entries, 19 CFR 351.214(f)(2) and the preamble to the Department's regulations leave the Department the discretion to determine whether to expand the POR, and, if so, the length of such expansion.³ In the majority of prior cases, the Department extended the POR no more than approximately 30 days in order to capture entries of POR sales.⁴ The entry in this case was made long after the end of the POR.⁵

² See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27319 (May 19, 1997) ("Final Rule").

³ See *Final Rule*, 62 FR at 27319-20 ("The Department does not disagree with the notion that the Secretary should have the discretion to expand the review period in appropriate cases.").

⁴ See, e.g., *Chlorinated Isocyanurates From the People's Republic of China: Initiation of New Shipper Review*, 76 FR 6399 (February 4, 2011) (extending the POR by 31 days where the first shipment entered one day after the end of the POR); *Fresh Garlic From the People's Republic of China: Initiation of New Shipper Reviews*, 75 FR 38986 (July 7, 2010) (extending the POR by one month for a shipment that entered less than one month after the end of the POR); *Uncovered Innerspring Units From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review*, 75 FR 62107 (October 7, 2010) (extending the POR by four days); *Certain Forged Stainless Steel Flanges From India: Rescission of New Shipper Review*, 66 FR 58433 (November 21, 2001) (rescinding a new shipper review where the entry was made more than three months after the end of the POR); *Petroleum Wax*

In this case, pursuant to 19 CFR 351.214(f)(2), we find that an expansion of the normal POR to include an entry and sale to an unaffiliated customer in the United States of subject merchandise would likely prevent the completion of the review of Hubei Nature within the time limits set by the Department's regulations. The Department would be required to gather additional information for the expanded period, analyze the information obtained, and, if necessary, verify the additional information. For example, the Department would be required to seek all necessary information from Hubei Nature and its importer(s) in connection with the sales and sales-related expenses, as well as obtain the factors of production data, applicable to a number of months outside the POR.⁶ Accordingly, we are rescinding the new shipper review with respect to Hubei Nature for the period September 1, 2012, through February 28, 2013.

The deadline for requesting a new shipper review covering Hubei's entry has not passed. *See* 19 CFR 351.214(c). The Department will consider a timely and adequate request for new shipper review from Hubei Nature made during the six-month period ending with the end of the annual anniversary month of this order, pursuant to 19 CFR 351.214(d) of the Department's regulations. Therefore, if Hubei Nature continues to meet the criteria for requesting a new shipper review, the Department will consider initiating a new shipper review with the POR that includes the sale which is the subject of this review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return

Candles from the People's Republic of China: Notice of Preliminary Results of Antidumping Duty New Shipper Review of Shandong Huihe, Ltd., 69 FR 46512 (August 3, 2004) (extending the POR by less than one month "[b]ecause we determine that this short expansion of the period will not likely prevent the completion of the review within the prescribed time limits, we have expanded the annual review period").

⁵ Due to the business proprietary nature of information regarding the entry date in question, we are withholding this information. *See* Hubei Nature's letter, dated March 14, 2013.

⁶ The Department issued the antidumping duty new shipper questionnaire to Hubei Nature on May 1, 2013.

or destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination is issued in accordance with 19 CFR 351.213(d)(4) and section 777(i)(1) of the Act.

Gary Taverman
Senior Advisor
for Antidumping and Countervailing Duty Operations

June 14, 2013 _____
Date

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